

AMENDED IN SENATE AUGUST 30, 2005

AMENDED IN SENATE AUGUST 17, 2005

AMENDED IN SENATE AUGUST 15, 2005

AMENDED IN SENATE JULY 1, 2005

**SENATE BILL**

**No. 1015**

**Introduced by Senator Romero**

(Principal coauthor: Assembly Member Parra)

**(Coauthors: Senators Ackerman, Kehoe, and Poochigian)**

(Coauthor: Assembly Member La Suer)

February 22, 2005

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An act to add and repeal Section 12016.1 of the Government Code, *and to add and repeal Section 11105.06 of the Penal Code, and to amend, repeal, and add Section 5066 of the Vehicle Code, and to amend Items 0690-001-0001, 0690-010-0890, 0690-010-3034, and 0690-101-0890 of, and to add Items 0685-001-0890, 0685-001-3034, 0685-101-0890, and 0685-101-3034 to, Section 2.00 of Chapter 38 of the Statutes of 2005, relating to homeland security, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately. of the Penal Code, relating to homeland security, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1015, as amended, Romero. Office of Homeland Security.

(1) Existing law requires the Governor to appoint a Director of Homeland Security to coordinate homeland security activities in the state, and to appoint a deputy director of homeland security to serve at the pleasure of the director. Existing law sets forth certain duties of an Office of Homeland Security in state government.

~~Existing law appropriates \$33,262,000 from the Federal Trust Fund to the Office of Emergency Services for the Office of Homeland Security, \$100,000 from the Antiterrorism Fund to the Office of Emergency Services for the Office of Homeland Security, and \$343,424,000 from the Federal Trust Fund to the Office of Emergency Services for plans and preparedness, of which \$328,000,000 is intended for support of the Office of Homeland Security.~~

~~This bill would, upon order of the Director of Finance, transfer the unencumbered balances of the \$33,262,000 and \$100,000 appropriations from the Office of Emergency Services directly to the Office of Homeland Security for support of that office, and the unencumbered balance of the \$343,424,000 appropriation that is intended for support of the Office of Homeland Security from the Office of Emergency Services directly to the Office of Homeland Security for local assistance. The bill would also appropriate \$1,777,000 from the Antiterrorism Fund to the Office of Homeland Security for local assistance.~~

~~(2) Existing~~

~~Existing law also authorizes the Attorney General to furnish specified summary criminal history information to certain peace officers of the state, subject to specified conditions.~~

~~This bill would, until January 1, 2007, provide that the Office of Homeland Security shall be considered a Class II criminal justice agency and would require the Attorney General to furnish state summary criminal history information to persons employed within the Office of Homeland Security whose duties and responsibilities require the authority to access criminal history and other intelligence information, and who have been cleared to do so by both the state Department of Justice and the United States Department of Homeland Security for these purposes.~~

~~(3)~~

~~(2) The California Public Records Act specifies that certain security, investigatory, and other information of certain law enforcement entities is not subject to disclosure.~~

~~This bill would, until January 1, 2007, specify that the Office of Homeland Security is a law enforcement organization as required for receipt by employees of the office of confidential intelligence information pursuant to these provisions.~~

~~(4) Existing law requires that  $\frac{1}{2}$  of certain revenues derived from the issuance, renewal, transfer, and substitution of California~~

~~memorial license plates and deposited into the Antiterrorism Fund, be allocated by the Controller, upon appropriation by the Legislature, to the Office of Criminal Justice Planning to be used solely for antiterrorism purposes.~~

~~This bill instead would, until January 1, 2007, require that  $\frac{1}{2}$  of these funds be allocated by the Controller, upon appropriation by the Legislature, to the Office of Homeland Security for these purposes.~~

~~(5)~~

~~(3) This bill would declare that it is to take effect immediately as an urgency statute.~~

~~Vote:  $\frac{2}{3}$ . Appropriation: ~~yes~~-no. Fiscal committee: yes.  
State-mandated local program: no.~~

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. (a) The Legislature finds and declares all of the~~  
2     ~~following:~~

3     ~~(1) The Office of Homeland Security was established in~~  
4     ~~February 2003 by executive order to coordinate the state's~~  
5     ~~antiterrorism activities.~~

6     ~~(2) In February of 2005, the Legislative Analyst's Office~~  
7     ~~recommended that the Legislature provide statutory authority for~~  
8     ~~the Office of Homeland Security. The Legislative Analyst's~~  
9     ~~Office analysis points out funding delays and the lack of a~~  
10    ~~unified strategic approach to homeland security issues.~~

11    ~~(3) The Legislature recognizes, in light of the events of~~  
12    ~~September 11, 2001, and the more recent London bombings, the~~  
13    ~~pressing need for a unified approach to homeland security within~~  
14    ~~the state.~~

15    ~~(b) Therefore, the Legislature intends to restructure the Office~~  
16    ~~of Homeland Security during the next legislative session but to~~  
17    ~~give the existing Office of Homeland Security responsibility of~~  
18    ~~administering its own budget appropriations commencing with~~  
19    ~~this fiscal year.~~

20    ~~SEC. 2.~~

21    ~~SECTION 1. Section 12016.1 is added to the Government~~  
22    ~~Code, to read:~~

23    ~~12016.1. (a) The Office of Homeland Security shall be~~  
24    ~~considered a law enforcement organization as required for receipt~~  
25    ~~of confidential intelligence information pursuant to subdivision~~

(f) of Section 6254 by persons employed within the Office of Homeland Security whose duties and responsibilities require the authority to access criminal history and other intelligence information and who have been cleared to do so by both the state Department of Justice and the United States Department of Homeland Security.

(b) This section shall remain in effect only until January 1, 2007, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends that date.

~~SEC. 3.~~

SEC. 2. Section 11105.06 is added to the Penal Code, to read:

11105.06. (a) In addition to furnishing state summary criminal history information to the persons and entities set forth in Section 11105 and subject to the requirements and conditions set forth in that section, the Attorney General shall furnish state summary criminal history information to persons employed within the Office of Homeland Security whose duties and responsibilities require the authority to access criminal history and other intelligence information and who have been cleared to do so by both the State Department of Justice and the United States Department of Homeland Security. These persons shall be furnished with that information on the same basis as persons designated in paragraph (2) of subdivision (c) of Section 11105.

*(b) The Office of Homeland Security shall be considered a Class II criminal justice agency, as defined in the policies, practices, and procedures required pursuant to Section 15160, for access to the California Law Enforcement Telecommunications System, provided that all terms and conditions established by the Attorney General pursuant to Section 15165 are met.*

~~(b)~~

(c) This section shall remain in effect only until January 1, 2007, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends that date.

~~SEC. 4. Section 5066 of the Vehicle Code is amended to read:~~

~~5066. (a) The department shall, in conjunction with the California Highway Patrol, design and make available for issuance pursuant to this article the California memorial license plate. Notwithstanding Section 5060, the California memorial license plate may be issued in a combination of numbers or letters, or both, as requested by the applicant for the plates. Any person described in Section 5101 may, upon payment of the additional fees set forth in subdivision (b), apply for and be issued a set of California memorial license plates.~~

~~(b) In addition to the regular fees for an original registration or renewal of registration, the following additional fees shall be paid for the issuance, renewal, retention, or transfer of the California memorial license plates authorized pursuant to this section:~~

~~(1) For the original issuance of the plates, fifty dollars (\$50).~~

~~(2) For a renewal of registration of the plates or retention of the plates, if renewal is not required, forty dollars (\$40).~~

~~(3) For transfer of the plates to another vehicle, fifteen dollars (\$15).~~

~~(4) For each substitute replacement plate, thirty-five dollars (\$35).~~

~~(5) In addition, for the issuance of an environmental license plate, as defined in Section 5103, the additional fees prescribed in Sections 5106 and 5108 shall be deposited proportionately in the funds described in subdivision (c).~~

~~(c) The department shall deposit the additional revenue derived from the issuance, renewal, transfer, and substitution of California memorial license plates as follows:~~

~~(1) Eighty-five percent in the Antiterrorism Fund, which is hereby created in the General Fund.~~

~~(A) Upon appropriation by the Legislature, one-half of the money in the fund shall be allocated by the Controller to the Office of Homeland Security to be used solely for antiterrorism activities. The office may not use more than 5 percent of the funds appropriated to it for administrative purposes.~~

~~(B) Upon appropriation by the Legislature in the annual Budget Act or in another statute, one-half of the money in the fund shall be used solely for antiterrorism activities.~~

~~(2) Fifteen percent in the California Memorial Scholarship Fund, which is hereby established in the General Fund. Moneys~~

1 deposited in this fund shall be administered by the Scholarshare  
2 Investment Board, and shall be available, upon appropriation in  
3 the annual Budget Act or in another statute, for distribution or  
4 encumbrance by the board pursuant to Article 21.5 (commencing  
5 with Section 70010) of Chapter 2 of Part 42 of the Education  
6 Code.

7 (d) The department shall deduct its costs to administer, but not  
8 to develop, the California memorial license plate program. The  
9 department may utilize an amount of money, not to exceed fifty  
10 thousand dollars (\$50,000) annually, derived from the issuance,  
11 renewal, transfer, and substitution of California memorial license  
12 plates for the continued promotion of the California memorial  
13 license plate program of this section.

14 (e) “Antiterrorism activities” means activities related to the  
15 prevention, detection, and emergency response to terrorism that  
16 are undertaken by state and local law enforcement, fire  
17 protection, and public health agencies. The funds provided for  
18 these activities, to the extent that funds are available, shall be  
19 used exclusively for purposes directly related to fighting  
20 terrorism. Eligible activities include, but are not limited to, hiring  
21 support staff to perform administrative tasks, hiring and training  
22 additional law enforcement, fire protection, and public health  
23 personnel, response training for existing and additional law  
24 enforcement, fire protection, and public health personnel, and  
25 hazardous materials and other equipment expenditures.

26 (f) This section shall remain in effect only until January 1,  
27 2007, and as of that date is repealed, unless a later enacted  
28 statute, that is enacted before January 1, 2007, deletes or extends  
29 that date.

30 SEC. 5. Section 5066 is added to the Vehicle Code, to read:

31 5066. (a) The department shall, in conjunction with the  
32 California Highway Patrol, design and make available for  
33 issuance pursuant to this article the California memorial license  
34 plate. Notwithstanding Section 5060, the California memorial  
35 license plate may be issued in a combination of numbers or  
36 letters, or both, as requested by the applicant for the plates. Any  
37 person described in Section 5101 may, upon payment of the  
38 additional fees set forth in subdivision (b), apply for and be  
39 issued a set of California memorial license plates.

~~(b) In addition to the regular fees for an original registration or renewal of registration, the following additional fees shall be paid for the issuance, renewal, retention, or transfer of the California memorial license plates authorized pursuant to this section:~~

~~(1) For the original issuance of the plates, fifty dollars (\$50).~~

~~(2) For a renewal of registration of the plates or retention of the plates, if renewal is not required, forty dollars (\$40).~~

~~(3) For transfer of the plates to another vehicle, fifteen dollars (\$15).~~

~~(4) For each substitute replacement plate, thirty-five dollars (\$35).~~

~~(5) In addition, for the issuance of an environmental license plate, as defined in Section 5103, the additional fees prescribed in Sections 5106 and 5108 shall be deposited proportionately in the funds described in subdivision (c).~~

~~(e) The department shall deposit the additional revenue derived from the issuance, renewal, transfer, and substitution of California memorial license plates as follows:~~

~~(1) Eighty-five percent in the Antiterrorism Fund, which is hereby created in the General Fund.~~

~~(A) Upon appropriation by the Legislature, one-half of the money in the fund shall be allocated by the Controller to the Office of Criminal Justice Planning to be used solely for antiterrorism activities. The office may not use more than 5 percent of the funds appropriated to it for administrative purposes.~~

~~(B) Upon appropriation by the Legislature in the annual Budget Act or in another statute, one-half of the money in the fund shall be used solely for antiterrorism activities.~~

~~(2) Fifteen percent in the California Memorial Scholarship Fund, which is hereby established in the General Fund. Moneys deposited in this fund shall be administered by the Scholarshare Investment Board, and shall be available, upon appropriation in the annual Budget Act or in another statute, for distribution or encumbrance by the board pursuant to Article 21.5 (commencing with Section 70010) of Chapter 2 of Part 42 of the Education Code.~~

~~(d) The department shall deduct its costs to administer, but not to develop, the California memorial license plate program. The~~

department may utilize an amount of money, not to exceed fifty thousand dollars (\$50,000) annually, derived from the issuance, renewal, transfer, and substitution of California memorial license plates for the continued promotion of the California memorial license plate program of this section.

(e) “Antiterrorism activities” means activities related to the prevention, detection, and emergency response to terrorism that are undertaken by state and local law enforcement, fire protection, and public health agencies. The funds provided for these activities, to the extent that funds are available, shall be used exclusively for purposes directly related to fighting terrorism. Eligible activities include, but are not limited to, hiring support staff to perform administrative tasks, hiring and training additional law enforcement, fire protection, and public health personnel, response training for existing and additional law enforcement, fire protection, and public health personnel, and hazardous materials and other equipment expenditures.

(f) Beginning January 1, 2007, and each January 1 thereafter, the department shall determine the number of currently outstanding and valid California memorial license plates. If that number is less than 7,500 in any year, then the department shall no longer issue or replace those plates.

(g) This section shall become operative on January 1, 2007.

SEC. 6. ~~Item 0685-001-0890 is added to Section 2.00 of Chapter 38 of the Statutes of 2005, to read:~~

0685-001-0890—For support of Office of Homeland Security,  
payable from the Federal Trust Fund .....

0

Provisions:

1. ~~It is the intent of the Legislature to formally restructure the Office of Homeland Security by statute in the next session. However, beginning in the 2005-06 fiscal year, the existing Office of Homeland Security shall be responsible for administering this budget appropriation.~~
2. ~~Upon order of the Director of Finance, funds may be transferred from this item to Item 0685-101-0890 to provide additional local assistance funding consistent with federal program guidelines.~~

SEC. 7. ~~Item 0685-001-3034 is added to Section 2.00 of Chapter 38 of the Statutes of 2005, to read:~~

~~0685-001-3034—For support of Office of Homeland Security,  
payable from the Antiterrorism Fund ..... 0~~

~~Provisions:~~

~~1. It is the intent of the Legislature to formally restructure the Office of Homeland Security by statute in the next session. However, beginning in the 2005-06 fiscal year, the existing Office of Homeland Security shall be responsible for administering this budget appropriation.~~

SEC. 8. ~~Item 0685-101-0890 is added to Section 2.00 of Chapter 38 of the Statutes of 2005, to read:~~

~~0685-101-0890—For local assistance, Office of Homeland Security, payable from the Federal Trust Fund ..... 0~~

~~Provisions:~~

~~1. It is the intent of the Legislature to formally restructure the Office of Homeland Security in statute in the next session. However, beginning in the 2005-06 fiscal year, the existing Office of Homeland Security shall be responsible for administering this budget appropriation.~~

SEC. 9. ~~Item 0685-101-3034 is added to Section 2.00 of Chapter 38 of the Statutes of 2005, to read:~~

~~0685-101-3034—For local assistance, Office of Homeland Security, payable from the Antiterrorism Fund ..... 1,777,000~~

~~Provisions:~~

~~1. It is the intent of the Legislature to formally restructure the Office of Homeland Security by statute in the next session. However, beginning in the 2005-06 fiscal year, the existing Office of Homeland Security shall be responsible for administering this budget appropriation.~~

SEC. 10. ~~Item 0690-001-0001 of Section 2.00 of Chapter 38 of the Statutes of 2005 is amended to read:~~

<del>0690-001-0001—For support of Office of Emergency Ser-</del>	
<del>VICES .....</del>	<del>36,105,000</del>
<del>Schedule:</del>	
<del>(1) 15-Mutual Aid Response .....</del>	<del>21,116,000 -</del>
<del>(2) 35-Plans and Preparedness .....</del>	<del>17,654,000 -</del>
<del>(3) 45-Disaster Assistance .....</del>	<del>23,620,000 -</del>
<del>(4) 55.01-Administration and Execu-</del>	<del>-</del>
<del>tive.....</del>	<del>7,173,000</del>
<del>(5) 55.02-Distributed—Administration</del>	<del>-</del>
<del>and Executive .....</del>	<del>-6,267,000</del>
<del>(6) 65-Office of Homeland Security....</del>	<del>33,262,000 -</del>
<del>(7) 97.20.001-Unallocated</del>	<del>-</del>
<del>Reduction .....</del>	<del>-614,000</del>
<del>(8) Reimbursements.....</del>	<del>-2,651,000 -</del>
<del>(9) Amount payable from the Unified</del>	<del>-</del>
<del>Program Account (Item 0690-001-</del>	
<del>0028) .....</del>	<del>-654,000</del>
<del>(10) Amount payable from the Nuclear</del>	<del>-</del>
<del>Planning Assessment Special Ac-</del>	
<del>count (Item 0690-001-0029) .....</del>	<del>-935,000</del>
<del>(11) Amount payable from the Federal</del>	<del>-</del>
<del>Trust Fund</del>	
<del>(Item 0690-001-0890) .....</del>	<del>-22,337,000</del>
<del>(12) Amount payable from the Federal</del>	<del>-</del>
<del>Trust Fund-</del>	
<del>(Item 0690-010-0890) .....</del>	<del>-33,262,000</del>
<del>Provisions:</del>	
<del>1. Funds appropriated in this item may be reduced by -</del>	
<del>the Director of Finance, after giving notice to the</del>	
<del>Chairperson of the Joint Legislative Budget Commit-</del>	
<del>tee, by the amount of federal funds made available</del>	
<del>for the purposes of this item in excess of the federal</del>	
<del>funds scheduled in Item 0690-001-0890.</del>	
<del>2. The Office of Emergency Services shall charge tu-</del>	<del>-</del>
<del>ition for all training offered through the California</del>	
<del>Specialized Training Institute.</del>	

- 1       3. Upon the approval by the Department of Finance, the -  
2           Controller shall transfer such funds as are necessary  
3           between this item and Item 0690-101-0890.
- 4       4. The Office of Homeland Security, in collaboration -  
5           with the State Department of Health Services, shall  
6           report to the Chairperson of the Joint Legislative  
7           Budget Committee, and the chairperson of the fiscal  
8           and policy committees of each house of the Legisla-  
9           ture on or before February 1, 2006, a statewide  
10          strategic plan for the use of federal homeland securi-  
11          ty and bioterrorism funds by all departments and lo-  
12          cal jurisdictions. The plan shall include the state's  
13          goals and objectives for improving the state's level  
14          of preparedness for a terrorism event, which (a) is  
15          based on an assessment of the state's level of pre-  
16          paredness and (b) reflects a coordination of prepared-  
17          ness activities at the state and local level. It is not  
18          the intent of the Legislature to require the Office of  
19          Homeland Security or the State Department of  
20          Health Services to disclose or include sensitive or  
21          classified information in the strategic plan.
- 22       5. It is the intent of the Legislature that the funding prior- -  
23          ities for federal homeland security funds are: (a) en-  
24          hancing information sharing between local, state,  
25          and federal public safety agencies; (b) identifying  
26          and protecting critical infrastructure and key assets  
27          to deter terrorists; (c) enhancing coordination of  
28          state agencies' homeland security activities; (d) im-  
29          plementing the state's homeland security strategy;  
30          and (e) implementing interoperable communications  
31          for public safety agencies.
- 32       6. It is the intent of the Legislature that the Office of -  
33          Emergency Services and the California Department  
34          of Forestry and Fire Protection, with assistance from  
35          the Department of General Services, collaborate to  
36          the extent possible in the purchasing of fire trucks.
- 37       7. Upon order of the Director of Finance, this item may -  
38          be adjusted to reflect any transfer made pursuant to  
39          Provision 1 of Item 0690-010-0890.

SEC. 11. ~~Item 0690-010-0890 of Section 2.00 of Chapter 38 of the Statutes of 2005 is amended to read:~~

~~0690-010-0890—For support of Office of Emergency Services for the Office of Homeland Security, for payment to Item 0690-001-0001, payable from the Federal Trust Fund ----- 33,262,000~~

~~Provisions:~~

~~1. The funds appropriated in this item are intended for support of the Office of Homeland Security. Upon order of the Director of Finance, the unencumbered balance of the funds appropriated by this item shall be transferred to Item 0685-001-0890.~~

SEC. 12. ~~Item 0690-010-3034 of Section 2.00 of Chapter 38 of the Statutes of 2005 is amended to read:~~

~~0690-010-3034—For support of Office of Emergency Services for the Office of Homeland Security ----- 100,000~~

~~Provisions:~~

~~1. The funds appropriated in this item are intended for support of the Office of Homeland Security. Upon order of the Director of Finance, the unencumbered balance of the funds appropriated by this item shall be transferred to Item 0685-001-3034.~~

SEC. 13. ~~Item 0690-101-0890 of Section 2.00 of Chapter 38 of the Statutes of 2005 is amended to read:~~

~~0690-101-0890—For local assistance, Office of Emergency Services, payable from the Federal Trust Fund ----- 901,150,000~~

~~Schedule:~~

~~(1) 35-Plans and Preparedness ----- 343,424,000 -  
(2) 45-Disaster Assistance ----- 557,726,000 -~~

~~Provisions:~~

~~1. Any federal funds that may become available in addition to the funds appropriated in this item for Program 45-Disaster Assistance are exempt from Section 28.00 of this act.~~

1       2. ~~Of the funds appropriated in Schedule (1) of this -~~  
2       ~~item, \$328,000,000 is intended for support of the~~  
3       ~~Office of Homeland Security. Upon order of the Di-~~  
4       ~~rector of Finance, the unencumbered balance of the~~  
5       ~~Office of Homeland Security funds appropriated by~~  
6       ~~this item shall be transferred to Item 0685-101-~~  
7       ~~0890.~~

8  
9       SEC. 14. This act is an urgency statute necessary for the  
10      immediate preservation of the public peace, health, or safety  
11      within the meaning of Article IV of the Constitution and shall go  
12      into immediate effect. The facts constituting the necessity are:

13      In order for the Office of Homeland Security to adequately  
14      administer the grants, properly reimburse local agencies for their  
15      homeland security expenditures, and receive all information  
16      necessary to evaluate threats and prepare training, it is necessary  
17      that this act take effect immediately.